

## **CITY OF TRINITY**

### **AN ORDINANCE PROVIDING FOR THE REMOVAL AND DISPOSITION OF ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES**

**WHEREAS**, the City Council of the City of Trinity is authorized by G.S. 160A-193, G.S. 160-303.2 to regulate, restrain or prohibit abandoned, nuisance and junked motor vehicles on public and private property within the City of Trinity's ordinance-making jurisdiction; and

**WHEREAS**, the City of Trinity finds it necessary and desirable to:

- (1) Enhance the quality of urban attractiveness and aesthetic appearance of the City of Trinity,
- (2) Protect the property values throughout the City of Trinity,
- (3) Preserve the livability and attractiveness of neighborhoods,
- (4) Promote tourism, conventions, and other opportunities for economic development for the City of Trinity,
- (5) Enhance the attractiveness of the City of Trinity's thoroughfares and commercial roads which present the primary, public visibility to passers-by of the City of Trinity, and
- (6) Promote the comfort, happiness and emotional stability of occupants of property in the vicinity of junked motor vehicles;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Trinity, North Carolina:

#### **Section 1. Short Title**

This Ordinance is hereby entitled and may be cited as "An Ordinance to Provide for the Removal and Disposition of Abandoned, Nuisance and Junked Motor Vehicles," and may be referred to as the "Junked Motor Vehicle Ordinance."

#### **Section 2. Administration**

The City of Trinity's City Council shall be primarily responsible for the administration and enforcement of this Ordinance, but they may delegate this responsibility by resolution. The City Council shall be responsible for administering the removal and disposition of "abandoned", "nuisance", or "junked motor vehicles" located on private property as well as within the public right-of-way of streets and highways. The City may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store and dispose of abandoned, nuisance or junked motor vehicles in compliance with this Ordinance and applicable state laws. Nothing in this Ordinance shall be construed to limit the legal authority or powers of any Law Enforcement Officers and fire departments and other authorized agencies in enforcing other laws or in otherwise carrying out their duties.

### **Section 3. Definitions**

- (1) Motor Vehicle – Any machine designed or intended to travel over land or water by self-propulsion or while attached to self-propelled motor vehicle.
- (2) Abandoned Motor Vehicle – An abandoned motor vehicle is one that is:
  - (a) Left on public ground or city owned property in violation of a law or Ordinance prohibiting parking; or
  - (b) Left longer than twenty-four (24) hours on property owned or operated by the City; or
  - (c) Left longer than two-hours (2) on private property without the consent of the owner, occupant or lessees of the property; or
  - (d) Left longer than seven (7) days on public grounds.
- (3) Authorized Official – The Enforcement Officer or other City Official designated by the City Council to authorize the removal of vehicles under the provisions of this chapter.
- (4) Junked Motor Vehicle – junked motor vehicle is one or more of the following:
  - (a) partially dismantled or wrecked; or
  - (b) cannot be self-propelled or moved in the manner in which it was originally intended to move; or
  - (c) more than five-years (5) old and appears to be worth less than one-hundred (\$100.00) dollars; or
  - (d) does not display a current license plate.
- (5) Nuisance Motor Vehicle – A motor vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance or unlawful, including a motor vehicle found to be:
  - (a) A breeding ground or harbor for mosquitoes or other insects or rats or other pests; or
  - (b) A point of heavy growth or weeds or other noxious vegetation over eight (8) inches of height; or
  - (c) A point of collection of pools or ponds of water; or
  - (d) A point of concentration of quantities of gasoline, oil and other flammable or explosive materials as evidenced by odor; or
  - (e) One which has areas of confinement which cannot be operated from the inside such as trunks, hoods, etc; or
  - (f) So situated or located that there is danger of its falling or turning over; or
  - (g) One which is a point of collection of garbage, food, waste, animal waste or any other rotten or putrescible matter of any kind; or
  - (h) One which has sharp parts which are jagged or contain sharp edges of metal or glass; or
  - (i) So offensive to the sight as to damage the community, neighborhood or area appearance; or
  - (j) For other reasons declared a health and safety hazard and a public nuisance by the Enforcement Officer and/or the City Council.
- (6) Junkyard (Salvage) – Any land or area used, in whole or part, for the storage, keeping or accumulation of materials, including scrap materials or used the

building materials, for the dismantling, demolition or abandonment of automobiles or other motor vehicles or machinery or parts thereof. This definition includes the following SIC groups: 5025 Motor Vehicle Parts, Used or 5093 Scrap and Waste Materials. These would only include legally operated businesses that conform to the City of Trinity Zoning Ordinances.

(7) Classic Vehicle – A vehicle that is:

- (a) Titled (vehicle owner must possess title);
- (b) Listed with the County Tax Department;
- (c) A minimum value of \$400.00;
- (d) restorable; and
- (e) must contain a power train system (including a motor and transmission).

(8) Car Cover – One that is specifically manufactured and retailed for the purpose of covering a car.

(9) Business Enterprise – Any for profit commercial activity, whether conducted by an individual, partnership, or corporation, either full-time or part-time. The activity must be operated in a lawful place, as shown by full compliance with all local licensing and zoning laws. It must also be operated in a lawful manner, as demonstrated by properly dated and authenticated business licenses, legal documentation (such as articles of incorporation, partnership agreements, or assumed name certificates), federal and/or state tax returns, or automobile dealer's licenses.

#### **Section 4. Abandoned Motor Vehicle Unlawful; Removal Authorized**

- (1) It shall be unlawful to abandon a motor vehicle (as defined above) by the registered owner or person entitled to possession of that motor vehicle.
- (2) Upon investigation the authorized city official may determine that a motor vehicle is an abandoned motor vehicle as defined above and order the motor vehicle removed.

#### **Section 5. Nuisance Motor Vehicle Unlawful; Removal Authorized.**

- (1) It shall be unlawful for the registered owner of a motor vehicle or for the owner, lessees or occupant of the real property upon which the motor vehicle is located to leave or allow the motor vehicle to remain on the property after it has been declared a nuisance motor vehicle.
- (2) Upon investigation, the authorized city official may determine and declare that a motor vehicle is a health hazard or safety hazard and nuisance motor vehicle as defined above and order the motor vehicle removed.

## **Section 6. Junked Motor Vehicle Regulated; Removal Authorized**

- (1) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle or for the owner, lessee or occupant of the real property upon which a junked motor vehicle is located to leave or allow the motor vehicle to remain on the property after the motor vehicle has been ordered removed.
- (2) It shall be unlawful to have more than two junked motor vehicles, as defined herein, on the premises of private property. Junked motor vehicles shall strictly comply with the location and concealment requirements of this section and the City of Trinity Zoning Ordinance. If a conflict exists, the more restrictive requirements shall apply.
- (3) It shall be unlawful for any owner or person entitled to the possession of a junked motor vehicle or for the owner, lessee or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the locational requirements or the concealment requirements of this section.
- (4) Subject to the provisions of subsection (5) below upon investigation, the Trinity City Council may order the removal of a junked motor vehicle, as defined above, after finding in writing that the aesthetic benefits of removing the motor vehicle outweigh the burdens imposed on the private property owner. Such findings shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community appearance. The following relevant factors, among others, may be considered:
  - (a) Protection of property values;
  - (b) Promotion of tourism and other economic development opportunities;
  - (c) Indirect protection of public health and safety;
  - (d) Preservation of the character and integrity of the community; and
  - (e) Maintenance of the attractiveness of the City's roadways for the traveling public; and
  - (f) Vehicle is located in an area specifically prohibited by the zoning ordinance; and
  - (g) Promotion of the comfort, happiness and emotional stability of area residents.
- (5) Two junked motor vehicles maybe located in the rear yard of a residential lot as defined by the City of Trinity Zoning Ordinance if the junked motor vehicle is covered by an acceptable car cover. The covering shall remain in good repair and not be allowed to deteriorate. Any number of junked motor vehicles may be stored on a lot, provided the motor vehicles are kept in a garage or building that provides complete enclosure. The covering or enclosure shall also comply with the requirements of the City of Trinity Zoning Ordinance. The Enforcement Officer has the authority to determine whether any junk motor vehicle is adequately concealed as required by this position.

## **Section 7. Right of Access to Inspect Motor Vehicles**

The City Enforcement Officer, the County Health Director, and the Mayor or their designees shall have the right, upon presentation of proper credentials and identification,

enter any premises within the jurisdiction of this Ordinance during the daylight hours to determine if any motor vehicle is a health or safety hazard (nuisance) or is detracting from the aesthetics of the area.

### **Section 8. Indemnification Against Loss**

The City may require a person requesting removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify (protect) the City against any expense or liability incurred because of the motor vehicle's removal, storage or sale.

### **Section 9. Removal of Abandoned, Nuisance or Junked Motor Vehicles; Pre-towing Notice Requirements**

- (1) Except as set forth in Section 12 below, abandoned, nuisance or junked motor vehicle(s) shall not be towed until notice has been given to the registered owner or person entitled to possession of the motor vehicle. In the case of a nuisance motor vehicle or a junked motor vehicle, if the name and mailing address of the registered owner or person entitled to the possession of the motor vehicle or the owner, lessee, or occupants of the real property upon which the motor vehicle is located can be determined with diligence, the Enforcement Officer shall send notice by first class mail. The Enforcement Officer shall be responsible for the mailing and shall keep a written record of the date, name and address of the people notified. If the name and address cannot be determined or if motor vehicle to be removed is an abandoned motor vehicle, notice shall be affixed to the windshield or some other conspicuous place on the motor vehicle indicating that the motor vehicle will be removed on a specific date (no sooner than seven (7) days after the notice is affixed) unless the motor vehicle is moved by the owner or legal possessor prior to that date.
- (2) The registered owner or person entitled to possession may choose not to remove the motor vehicle, but appeal the determination that the motor vehicle is abandoned, a nuisance motor vehicle, or, in the case of a junked motor vehicle, that the aesthetic benefits of removing the motor vehicle outweighs the burdens. Such appeal shall be made to the City of Trinity City Council in writing to be heard at their next regularly scheduled meeting. Further proceedings to remove the motor vehicle shall be stayed until the appeal is heard and decided.

### **Section 10. Exceptions to Prior Notice Requirements**

The notification requirement may be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. By way of illustration but not limitation, such circumstances include blockings or obstructing ingress or egress to businesses and residences, motor vehicles parked in such a location or manner as to pose a traffic hazard and motor vehicles causing damage to

public or private property. Vehicles parked in violation of any parking restrictions imposed under code sections.

### **Section 11. Removal of Motor Vehicles; Post-towing Notice Requirements**

Whenever a motor vehicle is removed, the Enforcement Officer shall immediately notify the last known registered owner of the following:

- (a) A description of the motor vehicle;
  - (b) The location where the motor vehicle is stored;
  - (c) The violation which caused the motor vehicle to be towed;
  - (d) The procedure the owner must follow to have the motor vehicle returned to him; and
  - (e) The procedure the owner must follow to request a probable cause hearing on the towing.
- (1) This written notice, including the information set forth in subsection (a) through (e) above, shall be mailed to the owner's last known address, unless this notice is waived in writing by the motor vehicle owner or his agent. If the motor vehicle is registered in North Carolina, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the motor vehicle.
- (2) Whenever a motor vehicle does not have a valid registration or registration plate, the City shall make reasonable efforts, including checking the motor vehicle identification number, to determine the last known registered owner of the motor vehicle and to notify him/her of the information set forth in subsection (a) through (e) above.

### **Section 12. Probable Cause Hearing Procedure**

- (1) The owner or any other person entitled to claim possession of the motor vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the County Magistrate (or in any other office designated to receive requests by the Chief District Court Judge) who shall set the hearing within seventy-two (72) hours of receiving the request. The owner, the Enforcement Officer, the person who towed and any other person affected by the action may present evidence at the hearing.
- (2) The only issue at the hearing is to determine whether or not probable cause existed for the removal of the motor vehicle. If the magistrate finds that cause existed the lien on the motor vehicle continues. If the magistrate finds no cause existed, the lien is extinguished and the motor vehicle shall be immediately returned to the owner. Any aggrieved party may appeal the magistrate's decision to District Court.

### **Section 13. Redemption of Motor Vehicle During Proceedings**

At any stage of the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed motor vehicle by paying the towing fee, including storage charges, or by posting a bond for double the amount of such fees and charges to the City. Upon regaining possession, the owner or person entitled to the possession of the motor vehicle shall not allow or engage in further violations of this Ordinance.

### **Section 14. Sale and Disposition of Unclaimed Vehicle**

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the City and in accordance with Article 1 of Chapter 44AS on the North Carolina General Statutes.

### **Section 15. Conditions on Removal of Vehicles from Private Property**

In no case will a vehicle be removed by the City from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Enforcement Office or other properly authorized public official. The City may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the City against any loss, expense or liability incurred because of the removal, storage or sale thereof.

### **Section 16. No Liability**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle for disposing of such motor vehicle as provided in this Ordinance.

### **Section 17. Exceptions**

Nothing in this Ordinance shall apply to any motor vehicle:

- (1) Which is located in a junkyard as defined in this Ordinance;
- (2) Which is in an enclosed building (See Section 6, Subsection 5);
- (3) Which is on the premises of a business enterprise being operated in a lawful place and manner if the motor vehicle is necessary to the operation of the enterprise (See Zoning Ordinance); or
- (4) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the City.

### **Section 18. Personal Classic Vehicle Storage Exemption**

No more than six (6) personal classic vehicles may be stored on private property, under this exemption, without the issuance of a Special Use Permit. The owner of these vehicles must reside on the property where the vehicles are stored. Persons with vehicles that are visible from adjoining properties and/or an access road must provide adequate screening which may include car covers, fencing, or natural buffers.

#### **Section 19. Unlawful Removal of Impounded Motor Vehicles**

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the City any motor vehicle which has been impounded pursuant to the provisions of this Ordinance unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

#### **Section 20. Fines**

In addition to the other remedies in the North Carolina General Statutes, the owner of the abandoned, junked or nuisance motor vehicles and/or the owner of the property on which the vehicles are located shall be subject to a fine per motor vehicle. Each day of violation shall be considered a separate offense. The fines shall cover the cost of removal, storage and disposal of the abandoned, nuisance or junked motor vehicle. If not paid, the debt shall be considered a lien against the motor vehicle owner's property or the property on which the motor vehicle is located.

#### **Section 21 Severability**

Should any provision of this Ordinance be declared invalid or unconstitutional by any court or competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part of which is not specially declared to be invalid or unconstitutional.

#### **Section 22 Effective Date**

This Ordinance shall become effective as of \_\_\_\_\_, 20 \_\_\_\_.

Upon motion of \_\_\_\_\_,

Seconded by \_\_\_\_\_

Ordinance was passed by the following vote:

Ayes:

Noes:



I, \_\_\_\_\_, City Clerk of the City of Trinity, do hereby certify that the foregoing Ordinance was duly adopted by the governing body of the City of Trinity at a regular meeting thereof, a quorum being present.

The \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

This Ordinance was introduced at the \_\_\_\_\_, 20\_\_\_\_ meeting of the City Council of the City of Trinity.

## THE CITY OF TRINITY

### AN ORDINANCE AMENDING THE PROVISIONS FOR THE REMOVAL AND DISPOSITION OF ABANDONED, NUISANCE, AND JUNKED MOTOR VEHICLES

**BE IT ORDAINED** by the City Council of the City of Trinity, North Carolina, that the Code of Ordinances of the City of Trinity be amended as follows:

**Part 1.** That the “Ordinance to Provide for the Removal and Disposition of Abandoned, Nuisance and Junked Motor Vehicles”, is amended as follows;

**Section 3. Definitions.** Paragraphs (2) and (4) are rewritten as follows:

“(2) Abandoned Motor Vehicle: As authorized and defined in G.S. 160A-303, an abandoned vehicle is one that:

- (a) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (b) Is left upon a public street or highway for longer than seven (7) days; or
- (c) Is left upon property owned or operated by the City for longer than twenty-four (24) hours; or
- (d) Is left upon private property without the consent of the owner, occupant, or lessee thereof for longer than two(2) hours.”

“(4) Junked Motor Vehicle: As authorized and defined in G.S. 160A-303.2, the term junked motor vehicle means a vehicle that does not display a current license plate lawfully upon vehicle and that:

- (a) Is partially dismantled or wrecked; or
- (b) Cannot be self-propelled or move in the manner in which it originally was intended to move; or
- (c) Is more than five (5) years old and appears to be worth less than one hundred dollars (\$100.00).”

**Section 6. Junked Motor Vehicle Regulated; Removal Authorized.** Paragraph (5) is rewritten as follows:

“(5) Two junked motor vehicles may be located in the rear yard of a residential lot, as defined in the City of Trinity Zoning Ordinance, provided such junked motor vehicle is entirely concealed from public view from a public street and/or abutting premises by an acceptable car cover. The covering shall remain in good repair and not allowed to deteriorate. The Enforcement Official has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision.”

**Section 20. Fines.** This section is amended by adding the following to the end of the existing section:

“In addition to the remedies provided for herein, any violation of the terms of this Ordinance shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in the General Penalties; Enforcement of Ordinances; Continuing Violations Ordinance of the City of Trinity.”

**Part 2.** All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**Part 3.** This ordinance shall become effective upon its adoption by the City Council of the City of Trinity, North Carolina.

**ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

**ATTEST**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor